

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

LEE DARRELL CRAYTON

Plaintiff

v.

BALDEN POLK, ET AL.

Defendants

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Case No. 5:20-cv-00086

ORDER

Plaintiff Lee Crayton, an inmate proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff alleged the wardens of the Telford Unit were not taking sufficient steps to combat the COVID-19 virus. After review of the pleadings, the Magistrate Judge issued a Report recommending dismissal of the lawsuit. Docket No. 9. Plaintiff previously filed at least three lawsuits or appeals which were dismissed—either as frivolous or for failure to state a claim upon which relief may be granted—and thus cannot proceed *in forma pauperis* absent an imminent showing of serious physical injury. *Id.* The Magistrate Judge observed that courts have held that general fears of COVID-19 do not satisfy the “imminent danger” exception. *Id.* at 2–3 (citing *Dotson v. Abbott*, No. 6:20-cv-00400, 2021 WL 111499 (E.D. Tex. Jan. 21, 2021)).

Plaintiff did not file objections to the Magistrate Judge’s Report *per se*, but instead filed a notice, which the Court will construe as objections. Docket No. 10. Plaintiff states in the notice that he received \$1,800.00 as an economic impact payment under the CARES Act. *Id.* He further states that \$3,000.00 has been transferred to the Clerk of the Court by “secured party creditor / private bank assignor Lee Darrell Crayton,” and this \$3,000.00 transfer is “accepted for value and the assignment is tendered for discharge and/or set-off of the account, against obligation of the United States for \$3,000.00 owed principal in equity interest discharging that portion of the public debt through secured party’s exemption #918103 from the debit to the credit side in value, dollar

for dollar, measured in lawful money of the United States.” *Id.* at 8.

None of the seven cases filed by Plaintiff in this Court reflect a payment of \$3,000.00 to the Clerk. The Magistrate Judge properly determined Plaintiff cannot proceed *in forma pauperis* and failed to raise a cognizable claim of imminent danger. See Docket No. 9. Plaintiff’s notice shows no valid basis upon which to set aside the Report of the Magistrate Judge.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge’s proposed findings and recommendations to which the Plaintiff objected. See 28 U.S.C. § 636(b)(1) (the Court shall “make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff’s objections are without merit. It is therefore

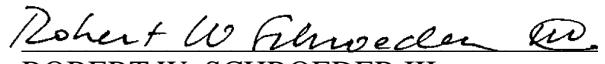
ORDERED that the Plaintiff’s objections are overruled and the Report of the Magistrate Judge (Docket No. 9) is **ADOPTED** as the opinion of the Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but **WITHOUT PREJUDICE** as to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full \$402.00 filing fee. It is further

ORDERED that should the Plaintiff pay the full filing fee within 15 days after the date of entry of dismissal, he be allowed to proceed in this lawsuit as though the full fee had been paid from the outset. Payment of the full filing fee will not affect initial screening for frivolousness, failure to state a claim or exhaustion of administrative remedies. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 3rd day of December, 2021.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE